IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODPUR

ORDER

S.B. Criminal Misc. Petition No.1680/2007

(Birbaldas Vs. State)

Date of Order : 26th October, 2007

HON'BLE MR. H.R. PANWAR, J.

Mr. R.S. Choudhary for petitioner.
Mr. Ashok Upadhyay, P.P.

Issue notice for final disposal.

Learned Public Prosecutor Mr. Ashok Upadhyay accepts notice on behalf of the State.

Heard learned counsel for the parties.

The instant criminal misc petition under Section 482 Cr.P.C. is directed against the order dated 28.09.2007 passed by the learned Sessions Judge, Hanumangarh (for short 'the revisional court') whereby the revision petition filed by the petitioner against the order dated 04.10.2001 passed by the Chief Judicial Magistrate, Hanumangarh (for short `the trial court') was dismissed on the ground of delay.

It appears that the order passed by the trial court came to be challenged by the petitioner before this Court by way of criminal misc. petition under Section 482 Cr.P.C. which came to be withdrawn on 23.08.2007 and the petitioner was granted liberty to file criminal revision petition within a period of 15 days. It appears that the petitioner obtained certified copy of the order dated 23rd August, 2007, on 10th September, 2007. He could not get the certified copy of the order in time. The revisional court without examining the merits of the case under Section 5 of the Limitation Act, seeking condonation of delay, dismissed the revision petition. In my view, the order impugned passed by the revisional court cannot be sustained and liable to be set aside.

In the result, the order impugned dated 28.09.2007 passed by the learned revisional court is set aside and the learned Sessions Judge, Hanumangarh is directed to hear and decide the application under Section 5 of the Limitation Act on merit while keeping in view the merit of the case and if satisfied condone the delay.

(H.R. PANWAR), J.

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S. B. Criminal Misc. Stay Petition No.1259/2007

Date of Order : 26.10.2007

HON'BLE MR. H.R. PANWAR, J.

Mr. G.R. Punia for petitioner.
Mr. Ashok Upadhyay, P.P.

Since the main petition itself has been decided, the stay petition also stands disposed of.

(H.R. PANWAR), J.

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